

29 AUGUST 2019

PR15-19 | Data Sharing Code of Practice

The National Association of Local Councils (NALC) is the nationally recognised membership and support organisation representing the interests of around 10,000 local (parish and town) councils and many parish meetings in England. Local councils are the backbone of our democracy and closest to local people, providing our neighbourhoods, villages, towns and small cities with a democratic voice and structure for taking action, contributing in excess of £2 billion of community investment to supporting and improving local communities and delivering neighbourhood level services.

NALC welcomes the chance to respond to the ICO's data sharing code of practice consultation. Our key points are set out as they relate to local councils in the below executive summary:

- ICO need to continue to work closely with NALC and the wider local council sector over the next three years to ensure that freedom of information (FOI) guidance and regulations are fit for purpose, as well as data sharing guidance;
- There are still too many vexatious Fol requests being made to England's local councils who are not resourced to deal with them;
- NALC agrees in principle with transparency but ICO needs to be aware that Fol for instance pushes the capacity envelope for local councils in terms of their ability to respond to requests which are not deemed "reasonable"; &
- We very much hope that ICO will work closely with bodies such as NALC, and issue simple and concise guidance to bodies such as local councils that do not routinely or frequently share personal data.

Specific responses to the three main questions which have most relevance to local councils are as below:

Question 1. Does the updated code adequately explain and advise on the new aspects of data protection legislation which are relevant to data sharing?

Yes, on balance. We believe the document lays out a sensible and clear approach to any data sharing issues which all size of local (parish and town) council might encounter. These should prove helpful as a starting point were any issues to arise that needed to be verified by local councils with NALC or the ICO in the future.

Question 3. Does the draft code cover the right issues about data sharing?

Yes on balance. But ICO need to be clear as to whether and how they would define local councillors under this code – i.e. as employees or not. For instance should a complaint about a local council or about the way in which an officer responds to a query from a member of the public which is going to be considered at a meeting of the full council be redacted to remove personal details or not.

NALC's view is that there is absolutely no way that local councillors can be defined as 'employees' - with the exception of those instances where local councillors also perform as officers of the Council, e.g. as the data protection officers, and get paid for their services (as opposed to simply being paid expenses).

Question 11. Does the draft code strike the right balance between recognising the benefits of sharing data and the need to protect it?

Yes on balance. Large parts of the code appear to be written for larger organisations who have specialist resource available to manage FOI, data protection and data sharing issues. Most local councils are smaller and do not have the luxury of such resource. It would be helpful to have guidance on prioritisation of the many requirements covered and on measures proportionate for the local council sector.

The vast majority of Parish Councils only have one paid officer and, more often than not, these people are part time and are expected to serve many functions. Often there is no understanding outside of a smaller local council how idiosyncratic their operations are. Invariably, there is no specialist knowledge and no spare capacity and even a lack of basic knowledge about the existence of such a code as this. NALC is happy to work with ICO to raise awareness of this draft code.

Should you require any further information on this response please do not hesitate to contact [REDACTED] policy and development manager, on [REDACTED] or via email at [REDACTED]

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